

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

ELLIOTT GUNTARP, BY AND THROUGH HIS
BROTHER, KENT GUNTARP PLAINTIFF
VS. NO. 1:05CV177-D-A
ITAWAMBA COUNTY SHERIFF'S DEPARTMENT
AND ITAWAMBA COUNTY, MISSISSIPPI DEFENDANTS

DEPOSITION OF PHYLLIS GUNTARP

TAKEN AT THE INSTANCE OF THE DEFENDANTS
IN THE LAW OFFICES OF WAIDE & ASSOCIATES
332 N. SPRING STREET, TUPELO, MISSISSIPPI
ON FEBRUARY 15, 2006, BEGINNING AT 4:00 P.M.

APPEARANCES NOTED HEREIN

Reported by: KATHRYN H. BOYER, CSR #1349

ADVANCED COURT REPORTING

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EXHIBIT

"C"

1 asked where we went and I said -- I told you where we went.
2 We went to his grandparents'.

3 Q. When is the first time you came to live in
4 Mississippi for good?

5 A. In '67.

6 Q. And you came to Fulton at that point; is that
7 right?

8 A. Right.

9 Q. And was that the Buena Vista address?

10 A. Yes.

11 Q. Okay. And I'm not going to get into too many
12 details about your work history, but have you held a job at
13 anytime between the time you moved into the Buena Vista
14 address to the present?

15 A. Yes.

16 Q. And what was your most recent job?

17 A. The most recent job was I worked at the chancery
18 clerk's office in Fulton from 1980 to 1990.

19 Q. That was a full-time job?

20 A. Full-time job, yes.

21 Q. Did you work after 1990?

22 A. No.

23 Q. Were you retired at that time?

24 A. Yes.

25 Q. Did you work prior to working at the chancery

1 were different?

2 A. Not right at that time.

3 Q. When did you start seeing any symptoms that you
4 thought maybe were related to his bipolar disorder?

5 A. Well, it was a few months later that we noticed he
6 was getting aggravated about things and were starting to have
7 a problem with him.

8 Q. When you say he was getting aggravated, what was he
9 doing?

10 A. Well, he was getting emotional, having highs and
11 lows, yelling at times and then not speaking.

12 Q. You know, Elliott has filed a complaint in this
13 case and in his complaint, it says that he was deemed totally
14 disabled by his bipolar condition shortly after 1985 or in
15 1986; is that about the time line?

16 A. No. The time line is his father died in 1992 and
17 the following year, 1993, in May when we had an appointment
18 at Memphis is when they give him the total disability.

19 Q. That was May of 1993?

20 A. Right.

21 Q. Okay. From 1986 to 1993, did you take him to see
22 any doctors based on his bipolar condition?

23 A. Before 1993, sir?

24 Q. Yes, ma'am.

25 A. My husband took him.

1 Mr. Travis had him, him being Elliott, involuntarily
2 committed to the VA hospital. Why did he do that?

3 A. Because he came -- he got sick.

4 Q. How did Elliott get sick?

5 A. He was living with his wife at the time and they
6 were having problems.

7 Q. Is this Shin or Jan he was living with?

8 A. Jan.

9 Q. And where were they living at the time?

10 A. In Fulton.

11 Q. And what problems was Elliott having that caused
12 Travis to take the steps to have him involuntarily committed?

13 A. He was living in an apartment with his wife at the
14 time and he was having a problem, started having a problem
15 with everybody and with us.

16 Q. What was Elliott doing? Why was he having a
17 problem?

18 A. He says it had to do with Jan.

19 Q. I understand that. I'm asking you what Elliott was
20 doing. I understand the cause of the problem was his shaky
21 marriage at the time.

22 MR. WOODRUFF: Object to the form.

23 Q. (Mr. Latimer) Or he was having trouble in his
24 marriage at the time. What I'm asking you is: How was he
25 acting in response to that? How was Elliott acting?

1 A. Well, he was yelling and the same, he'd go from a
2 high to a low. He'd either be yelling or be real paranoid or
3 upset with anything we said or he'd be at a low where he
4 wouldn't want to speak. Pacing.

5 Q. You mentioned him being paranoid. Did he think
6 people were after him sometimes?

7 A. Yes.

8 Q. Did he think people were trying to hurt him?

9 A. Yes.

10 Q. Were these made-up people in his mind?

11 A. No.

12 Q. Who were they?

13 A. The time he got sick then was -- he thought that
14 somebody was coming after him.

15 Q. And I'm asking you: Was that person a make-believe
16 person or was it somebody that y'all knew? Who did he think
17 was coming after him?

18 A. The police.

19 Q. The Fulton police?

20 A. I don't know. He just told me the police.

21 Q. Did he tell you why he thought the police were
22 coming after him?

23 A. Because he was sick.

24 Q. Did he never mention anybody in particular on the
25 police force was coming after him?

1 A. Not that time.

2 Q. Did he mention another time specifically that
3 somebody on the police force was coming after him?

4 A. Yes.

5 Q. And when was that?

6 A. This last time he was sick.

7 Q. Now, I'm talking about the 1991 time for right now.
8 We're going to go to the --

9 A. Yes. This was --

10 Q. I appreciate you telling me that. Absolutely.
11 During the 1991 time, was anybody on the police force coming
12 after him?

13 A. Not that I know of.

14 Q. Okay. Did he have any other fantasies like that
15 that weren't happening or weren't true?

16 A. No.

17 Q. And you're talking about the 1991 time, correct, at
18 this time?

19 A. Yeah. He thought they were spying on him.

20 Q. Who is they?

21 A. He thought that they were spying on him, the
22 police.

23 Q. Okay. When Travis had him involuntarily committed,
24 what did Travis do to make that happen in 1991?

25 A. In 1991, in order for us to -- well, he filed an

1 affidavit, of course, as usual and in order to get him to the
2 veterans hospital, they -- he called them and they wouldn't
3 allow him to bring him there unless he consented to sign in
4 and he would not consent to go and sign in. So my husband
5 called a senator, John White, to see if he could help him get
6 into the hospital and, of course, Mr. John White made
7 arrangements and called us and told us that we could bring
8 him there.

9 Q. To the VA hospital?

10 A. Yes.

11 Q. Did you transport -- or you or Travis transport
12 Elliott in 1991 from Fulton to the VA hospital or did
13 somebody from law enforcement do that?

14 A. Somebody from law enforcement.

15 Q. Who did?

16 A. Ray Barrett.

17 Q. From the Fulton Police Department?

18 A. Yes.

19 Q. Do you remember how long it was from the time that
20 Travis executed the commitment affidavit from the time Ray
21 Barrett picked up Elliott?

22 A. I can't recall.

23 Q. Did I hear you right that in the interim, Travis
24 had to call the senator to be able to get a bed for Elliott
25 down at the VA hospital?

1 Q. You mentioned he was uncontrollable. How was he
2 uncontrollable?

3 A. Pacing, the usual, high/low, argumental.

4 Q. Was he cussing at that time?

5 A. Somewhat, yes.

6 Q. Was he yelling at that time?

7 A. Yes.

8 Q. Did he ever threaten you?

9 A. Not on the first occasion.

10 Q. Did he ever put his hands on you on the first
11 occasion in '91?

12 A. No.

13 Q. Ms. Guntharp, also in the complaint, it says that
14 later in 1991 Elliott checked himself back into the veterans
15 hospital. Do you remember that?

16 A. Yes.

17 Q. Why did he check himself back in?

18 A. Because he wasn't ready to be back home and he
19 realized that he wasn't ready, so he was willing to go back.

20 Q. And I should have asked you this earlier. Before I
21 talk about the time that he checked himself back in, I want
22 to talk about before he went down there the first time in
23 1991. How long did he stay in the Itawamba County Jail then?

24 A. I can't recall.

25 Q. Do you remember it being a matter of days? Was it

1 a week?

2 A. It wasn't all that long. I know it wasn't. I know
3 it wasn't very long, but I really can't recall how many days
4 it was.

5 Q. But you think it was a number of days; is that
6 fair?

7 A. That's fair, I'd say. Yeah.

8 Q. In 1991, where was he housed in the Itawamba County
9 Jail?

10 A. In a cell, I'm sure.

11 Q. Do you know what section of the jail he was placed
12 in?

13 A. It wasn't discussed.

14 Q. Okay. Did you ever visit him at the Itawamba jail
15 in 1991?

16 A. Yes.

17 Q. Tell me about that.

18 A. What do you need to know about it?

19 Q. Tell me how you visited him in the Itawamba County
20 Jail in 1991.

21 A. Went and asked to see him and got to see him.

22 Q. Did you go in the front area of the jail?

23 A. I believe so, yes.

24 Q. And do you remember who you asked to see Elliott?

25 A. No.

1 Q. When Elliott checked himself back into the VA
2 hospital in 1991, how long did he stay down there?

3 A. About another six weeks.

4 Q. Did you have to go through the commitment process
5 again or is it --

6 A. Yes. Yes. We had to go through it again in
7 Jackson, Mississippi.

8 Q. Did you go through a court?

9 A. Yes.

10 Q. And did --

11 (Mr. Woodruff present)

12 Q. -- Travis file another commitment affidavit at that
13 time?

14 A. Yes.

15 Q. Did you file a commitment affidavit in 1991 at all?

16 A. I believe my husband did both.

17 Q. Okay. Did Elliott spend anytime in the Itawamba
18 County Jail from his first stay in the VA hospital to his
19 second stay at the VA hospital?

20 A. You're talking about --

21 Q. In 1991.

22 A. To when?

23 Q. I think it was your testimony that before he went
24 to the VA hospital in 1991, he stayed some days in the
25 Itawamba County Jail; is that correct?

1 Q. What year was that?

2 A. I think he lived with her the year 1990 or 1991.
3 Before he got -- he was living with her at that time he got
4 sick in '91.

5 Q. Okay. Do you know him to ever have been physically
6 abusive to her?

7 A. No.

8 Q. Did he yell at her?

9 A. He might have.

10 Q. Did he ever threaten her?

11 A. No.

12 Q. After Mr. Travis died, there's a period of time
13 from 1992 to 1995 when, I believe, Kent came to Mississippi.

14 A. Yeah.

15 Q. So we've got a three-year time period there from
16 1992 to 1995.

17 A. Yes.

18 Q. Did you take Elliott on all of his medical
19 appointments during that time span?

20 A. I was -- either we drove ourselves or somebody like
21 Kent or my daughter-in-law drove us.

22 Q. Ms. Guntharp, Elliott's complaint says that on
23 April 1st of 2004, that his bipolar condition took a turn for
24 the worse.

25 A. Yes.

1 Q. The complaint says he became paranoid; that he
2 became obsessive and that he became hostile towards family
3 members. Do you agree with that?

4 A. Yes.

5 Q. At that particular point in time, April 1 of 2004,
6 how did he become paranoid?

7 A. Same problem he had in '91. He was having
8 difficulties with his wife.

9 Q. Did he think the police were after him then?

10 A. Not right at that time, no.

11 Q. Well, now, you told me earlier that he thought the
12 police --

13 A. It --

14 Q. Let me finish my question. That he thought the
15 police were after him in 1991 prior to his first stay at the
16 VA hospital. And I think you told me at some point after
17 that he thought that the police were after him.

18 A. After the occasion in 2004.

19 Q. After his stay in the Itawamba County Jail?

20 A. Yes.

21 Q. Okay. Was he imagining anything else prior to his
22 stay at the Itawamba County Jail in the spring of 2004?

23 A. Not that I can recollect, no.

24 Q. I guess what I'm getting at is the complaint says
25 he was paranoid and paranoia is you think things are

1 time that they told him not to ever come back there. He had
2 got in a little problem with the salesclerk. And at one of
3 the restaurants, he was told not to come back because he got
4 in an argument with one of the waitresses.

5 Q. Do you know whether those events actually happened?

6 A. I believe they did.

7 Q. How do you believe they did?

8 A. Because Elliott was never one to tell me stories
9 about -- I don't ever recollect him telling me stories about
10 things like that that didn't happen. He didn't makeup
11 things.

12 Q. Did you go to Wal-Mart or the restaurant and ask
13 them about it?

14 A. No.

15 Q. We've mentioned him being paranoid, saying that you
16 lied to him, saying that Judy and Kent were lying to him.
17 We've talked about instances he's had at Wal-Mart and at a
18 restaurant. The complaint says he was hostile towards family
19 members. Was he hostile towards you?

20 A. Yes.

21 Q. How was he hostile towards you?

22 A. Just running around screaming at me. I didn't know
23 whether he was going to hit me or not. I mean, you know, he
24 was just really mad.

25 Q. Did he threaten you?

1 A. I can't say that he really did, but he did give me
2 a big scare.

3 Q. Did you feel threatened?

4 A. Yes.

5 Q. Is this the time Elliott had an ax handle in his
6 hand?

7 A. I guess you could call it an ax handle.

8 Q. Was it a bat?

9 A. Similar to a bat. Sort of stick like, Buford
10 Pusser.

11 Q. Buford Pusser whooping stick, huh?

12 A. Yes.

13 Q. What was he doing with that?

14 A. Just swinging it around.

15 Q. Was he swinging it around towards you?

16 A. No. But he was swinging it around.

17 Q. Have you ever seen Star Wars, the movie?

18 A. No.

19 Q. Was he swinging it around like a baseball player
20 swings a bat?

21 A. He was swinging it (indicating).

22 Q. And you're doing your arm almost like a tennis
23 player would hit a ball.

24 A. Yeah. I guess.

25 Q. In the affidavit that you filed to get him

1 committed due to this episode, you said that he was making
2 threats. Who was he making a threat to?

3 A. He was threatening that he was going to kill
4 himself for one thing and just the way he was talking, I felt
5 that I was being threatened too with the bat.

6 Q. Did he ask family members to get him a gun?

7 A. Yes.

8 Q. Who did he ask to get him a gun?

9 A. I believe he asked Kent to get him a gun.

10 Q. Did he ever ask you that?

11 A. Yes.

12 Q. To get him a gun?

13 A. He wanted to know where his dad's gun was at.

14 Q. Did he threaten to leave the state?

15 A. Yes.

16 Q. Where did he threaten to go?

17 A. Threatened to go to Georgia.

18 Q. Where his first wife lives?

19 A. Yes, and also, he threatened to go to Illinois.

20 Q. Where Sandy lives?

21 A. Yes.

22 Q. Your affidavit to have him committed in 2004 says
23 that he withdrew a large sum of money. Is that right, that
24 he withdrew a large sum of money?

25 A. Actually, when I checked -- I had thought he had at

1 the time, but actually, when I checked, he had the money. He
2 didn't take it.

3 Q. What money are you talking about?

4 A. Some that he had drew out and had put in the -- a
5 dresser drawer. It was still there.

6 Q. Ms. Guntharp, we've talked about Elliott's
7 condition taking a turn for the worse on April 1 of 2004,
8 right?

9 A. Right.

10 Q. Kent told us earlier today that you could see
11 Elliott's condition get worse in the days leading up to April
12 1st.

13 A. Yes.

14 Q. Kent testified that that was a two-week time period
15 approximately.

16 A. It was approximately that or a little more, yes.

17 Q. Did you see an escalation in his behavior?

18 A. Yes.

19 Q. You tried to get him committed before April 1 and
20 let me show you a document, I believe it's Exhibit 5.
21 Ms. Guntharp, just take a look at that if you don't mind.

22 A. Okay.

23 Q. I'll represent to you that that's the commitment
24 affidavit that you took out to have Elliott committed right
25 prior to April 1st of 2004.

1 A. Yes.

2 Q. Would you agree with me about that?

3 A. Yes.

4 Q. Okay. That's your signature on the bottom of most
5 of the documents?

6 A. That is my signature.

7 Q. Kent testified that he filled out --

8 A. Yes.

9 Q. That's his print writing?

10 A. That's his print writing.

11 Q. Okay. The date that is showing -- it's on a lot of
12 the pages, but I see it on the bottom of page number two,
13 March 30th of 2004.

14 A. Yes.

15 Q. Do you have any reason to dispute that date?

16 A. No.

17 Q. Okay. Now, Ms. Guntharp, I know you've worked in
18 the chancery clerk's office, and so, you have unique
19 experience in this field. After you signed this commitment
20 affidavit on March 30th of 2004, what did you think was going
21 to happen?

22 A. Well, that they were going to pick him up.

23 Q. They being?

24 A. The officers were going to pick him up to be
25 prepared to go for a hearing.

1 Q. When did you understand that they were going to
2 pick him up? Did you know of a timetable?

3 A. No.

4 Q. You just thought it would come at some point in
5 time?

6 A. Yes.

7 Q. Paragraph nine of Elliott's complaint states that
8 he became uncontrollable. Now, is that the time period you
9 take out the commitment papers on March 30th of 2004. Then
10 are we talking about the episode with the Buford Pusser stick
11 and him pacing in the house and you feeling threatened?

12 A. That was the day he was picked up on April 1st.

13 Q. Okay. And did he lock you out of the house?

14 A. Yes.

15 Q. How did he lock you out of the house?

16 A. Well, he had me so frightened I got on the phone
17 and called, Sandy (sic) answered and told them to come get me
18 immediately; that I was scared. I grabbed my purse and
19 sweater and run out the door and he run after me behind me
20 and slammed the door shut and locked it.

21 Q. You said you called and Sandy answered. Who did
22 you call?

23 A. To call Kent and them to come get me.

24 Q. I thought Sandy lived in Illinois at the time.

25 A. Judy.

1 Q. About what was the time lapse between the time you
2 called them and the time they arrived?

3 A. I can't recall.

4 Q. Less than an hour or more than an hour?

5 A. Less than a hour.

6 Q. And what time of day was it at this point?

7 A. Early afternoon. Sometime, I believe, after 12:00,
8 early afternoon.

9 Q. And Kent and Judy eventually came; is that right?

10 A. Yes.

11 Q. Was anybody with them or did they come alone?

12 A. They came alone.

13 Q. And did you talk to Kent and Judy when they pulled
14 up?

15 A. Yes.

16 Q. And what did you tell them?

17 A. I told them what had happened.

18 Q. And what did they tell you?

19 A. That -- Kent had told me that he had called
20 somebody at the sheriff's department or the police
21 department, I'm not positive.

22 Q. Did Kent --

23 A. Just said called somebody to get Elliott.

24 Q. Kent told you that he had called somebody to come
25 get Elliott?

1 A. Yes.

2 Q. Did somebody come get Elliott?

3 A. Yes.

4 Q. Do you know who came?

5 A. Jerry Holder.

6 Q. Pickup the story from when Jerry Holder arrived at
7 your house. What happened then?

8 A. Well, Kent went in with Jerry Holder.

9 Q. Before we go too much farther, as far as what
10 happened inside the house, when Jerry Holder drove up, did he
11 have any -- did you speak to him?

12 A. I don't think so at that time.

13 Q. Did y'all have any conversation about what was
14 happening? By y'all, I mean, you and Jerry.

15 A. No.

16 Q. Did Jerry talk to Kent when he drove up?

17 A. Yes.

18 Q. Was Judy a part of that conversation?

19 A. I can't recollect.

20 Q. Did you hear what Jerry and Kent were talking
21 about?

22 A. No.

23 Q. You didn't hear any of that conversation?

24 A. No.

25 Q. After they had their conversation, what happened?

1 have had with each other?

2 A. That I can recollect.

3 Q. After Officer Holder put Kent -- excuse me, put
4 Elliott into his squad car, did you talk to Kent?

5 A. Yes.

6 Q. Did Kent talk to you about what's going on, about
7 what was happening?

8 A. Yes.

9 Q. What did he tell you?

10 A. The only thing I can remember is he said Mr. Holder
11 was very good at what he was doing, he was able to handle
12 Elliott really well. That's all I can recollect.

13 Q. Did he tell you that Elliott was going to have to
14 go to jail?

15 A. I knew that.

16 Q. How did you know that?

17 A. Because -- well, I just figured if he was coming,
18 he was going to take him, you know.

19 Q. Did you have any problem with Elliott going to jail
20 at that time?

21 A. No. Because I knew he needed treatment. I hated
22 it.

23 Q. Now that Officer Holder had come to your home and
24 taken Elliott and put him in the squad car, did you have any
25 understanding of how this would affect the commitment

1 she could talk to Elliott a few minutes because it was our
2 understanding if he would sign the waiver he wouldn't have to
3 have a hearing. So she did allow for Sandy to go in a back
4 room and talk to Elliott and he agreed to sign the waiver.

5 Q. And just to be clear, when Elliott and Sandy were
6 talking, no other family members were present?

7 A. No.

8 Q. Was Michelle Floyd, the attorney, present?

9 A. Yes.

10 Q. Did you talk to Sandy after that meeting?

11 A. Yes.

12 Q. Did Elliott talk to her at all during that meeting?

13 A. Yes.

14 Q. What did she say Elliott said?

15 A. I guess it was the usual. They were happy to see
16 each other and Sandy told him why she was there and asked him
17 if he would do that and told him why she thought that he
18 should do that, I believe, and -- is what she told me and he
19 agreed.

20 Q. Did Sandy tell you they had any other type of
21 conversation, talked about any other thing?

22 A. No.

23 Q. In court that day, did Elliott say something out
24 loud in open court about the doctors from Region III having
25 something to do with sexuality or --

1 A. Yes.

2 Q. What did he say?

3 A. He said something derogative about him liking young
4 people or something like that.

5 Q. He just said it out loud in open court?

6 A. Yes.

7 Q. Was Elliott standing before the judge that time or
8 was he --

9 A. Yes.

10 Q. When he told Judge Mask that?

11 A. Yes.

12 Q. Okay. Did Elliott say anything else that day?

13 A. No, not to me.

14 Q. At that time, did you or anybody in your family
15 complain to Judge Mask that you had not been able to visit
16 Elliott?

17 A. We complained to Michelle Floyd.

18 Q. Did she complain to Judge Mask in your presence?

19 A. No.

20 Q. And nobody from your family said anything in court
21 that day to Judge Mask?

22 A. I don't believe so.

23 Q. Did you complain to anybody else, other than
24 Michelle Floyd, that you weren't able to visit Elliott?

25 A. Yes.